

AN ACT

RELATING TO ARCHITECTURAL SERVICES; PROVIDING FOR  
TELECONFERENCE BOARD MEETINGS; CLARIFYING REGISTRATION  
REQUIREMENTS; EXPANDING THE GROUNDS FOR DISCIPLINARY ACTIONS;  
EXTENDING THE LIFE OF THE BOARD OF EXAMINERS FOR ARCHITECTS;  
AMENDING SECTIONS OF THE ARCHITECTURAL ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-15-2 NMSA 1978 (being Laws 1979,  
Chapter 362, Section 2, as amended) is amended to read:

"61-15-2. DEFINITIONS.--As used in the Architectural  
Act:

A. "architect" means any individual registered  
under the Architectural Act to practice architecture;

B. "architectural services" means the services,  
as defined by rule of the board, performed in the practice of  
architecture. These services include predesign services,  
programming and planning, providing designs, drawings,  
specifications, other technical submissions, administration  
of construction contracts, coordination of technical  
submissions prepared by others and such other professional  
services as may be necessary to the planning, progress and  
completion of any architectural services. An architect who  
has complied with all of the laws of New Mexico relating to  
the practice of architecture has a right to engage in the

incidental practice of activities properly classifiable as engineering; provided that the architect does not hold himself out to be an engineer or as performing engineering services and further provided that the architect performs only that part of the work for which the architect is professionally qualified and uses qualified professional engineers, architects or others for those portions of the work in which the contracting architect is not qualified. Furthermore, the architect shall assume all responsibility for compliance with all laws, codes, rules and ordinances of the state or its political subdivisions pertaining to documents bearing an architect's professional seal;

C. "board" means the board of examiners for architects;

D. "construction administration", when performed by an architect, means the interpretation of the drawings and specifications, the establishment of standards of acceptable workmanship and the observation of construction to determine its consistency with the general intent of the construction documents. Inspection of buildings by contractors, subcontractors or building inspectors or their agents shall not constitute construction administration;

E. "incidental practice" means the performance of other professional services that are related to an architect's performance of architectural services;

F. "intern architect" means a person who is actively pursuing completion of the requirements for diversified training in accordance with rules of the board;

G. "practice of architecture" means rendering or offering to render architectural services in connection with the design, construction, enlargement or alteration of a building or group of buildings and the space within the site surrounding those buildings, which have as their principal purpose human occupancy or habitation. "Practice of architecture" does not include the practice of engineering as defined in the Engineering and Surveying Practice Act but may include such engineering work as is incidental practice;

H. "project" means the building or group of buildings and the space within the site surrounding the buildings as defined by the construction documents; and

I. "responsible charge" means that all architectural services have been or will be performed under the direction, guidance and restraining power of a registered architect who has exercised professional judgment with respect thereto."

Section 2. Section 61-15-4 NMSA 1978 (being Laws 1931, Chapter 155, Section 3, as amended) is amended to read:

"61-15-4. POWERS AND DUTIES OF THE BOARD.--

A. The board shall hold at least four regular meetings each year. Any board member failing to attend three

consecutive regular meetings is automatically removed as a member of the board. A majority of the board members constitutes a quorum.

B. A board member may participate in a meeting of the board by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person if:

(1) each member participating by conference telephone can be identified when speaking;

(2) all participants are able to hear each other at the same time; and

(3) members of the public attending the meeting are able to hear all board members who speak during the hearing.

C. The board may establish committees to carry out the provisions of the Architectural Act. The board or any committee thereof shall have the power to subpoena any witness, to administer oaths and to take testimony concerning matters within its jurisdiction. It is within the jurisdiction of the board to determine and prescribe by regulations the professional and technical qualifications necessary for the practice of architecture in New Mexico. The board shall adopt and have an official seal, which shall be affixed to all certificates of registration granted, and may make rules not inconsistent with law.

D. The board may offer, engage in and promote educational and other activities as it deems necessary to fulfill its duty to promote the public welfare.

E. The board may, for the purpose of protecting the citizens of New Mexico and promoting current architectural knowledge and practice, adopt rules establishing continuing education requirements as a condition of registration renewal.

F. Members of the board shall receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance. All expenses certified by the board as properly and necessarily incurred in the discharge of its duties, including authorized reimbursement and necessary expenses incident to cooperation with like boards of other states, shall be paid by the state treasurer out of the "fund of the board of examiners for architects" on the warrant of the secretary of finance and administration issued upon vouchers signed by the chair or the chair's designee; provided, however, that at no time shall the total warrants issued exceed the total amount of funds accumulated under the Architectural Act. All money derived from the operation of the Architectural Act shall be deposited with the state treasurer, who shall keep the money in the fund of the board of examiners for architects.

G. The board shall by rule provide for the examinations required for registration. The board shall keep a complete record of all examinations.

H. Upon application for registration, upon a prescribed form and upon payment by the applicant of a fee set by the board, the board shall consider the application and, in cases as herein authorized, shall issue a certificate of registration as an architect to any person who submits evidence satisfactory to the board that the person is fully qualified to practice architecture.

I. It is the duty of the board to report to the district attorney of the district where the offense was committed any criminal violation of the Architectural Act.

J. The board may deny, review, suspend or revoke a registration to practice architecture and may censure, fine, reprimand and place on probation and stipulation any architect in accordance with the Uniform Licensing Act for any cause as stated in the Architectural Act.

K. The board, in cooperation with the state board of registration for professional engineers and land surveyors and the board of landscape architects, shall create a joint standing committee to be known as the "joint practice committee". In order to safeguard life, health and property and to promote public welfare, the purpose of the committee is to promote and develop the highest professional standards

in design, planning and construction and the resolution of ambiguities concerning the professions. The composition of the committee and its duties and powers shall be in accordance with identical resolutions adopted by each board."

Section 3. Section 61-15-5 NMSA 1978 (being Laws 1931, Chapter 155, Section 4, as amended) is amended to read:

"61-15-5. ADDITIONAL DUTIES OF THE BOARD.--

A. The board shall keep a record of its proceedings. The records of the board shall be prima facie evidence of the proceedings of the board set forth in the record and a transcript of the record, duly certified by the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

B. The board shall keep a register of all applications for registration, which shall show the name, age and residence of each applicant, the date of application, the applicant's place of business, the applicant's educational and other qualifications, whether an examination was required, whether the applicant was rejected, whether a certificate of registration was granted, the date of the action of the board and any other information deemed necessary by the board.

C. Annually, the board shall submit to the governor a report of its transactions of the preceding year accompanied by a complete statement of the receipts and

expenditures of the board. The report shall be available to the public.

D. Board records and papers which are of a confidential nature and are not public records include examination material for examinations not yet given, file records of examination problem solutions, letters of inquiry and references concerning applicants, board inquiry forms concerning applicants and investigation files. All data, communications and information acquired by the board relating to actual or potential disciplinary action is confidential and shall not be disclosed.

E. A roster showing the names and addresses of all registered architects shall be prepared annually by the board and shall be made available to each registered architect and placed on file with the secretary of state. Copies of the roster may be distributed or sold to the public.

F. The board shall, by rule, set application, registration, renewal, examination and other fees.

G. The board may, by rule, set criteria for the training of intern architects."

Section 4. Section 61-15-6 NMSA 1978 (being Laws 1931, Chapter 155, Section 5, as amended) is amended to read:

"61-15-6. REQUIREMENTS FOR REGISTRATION.--

A. To be eligible for registration, a person

shall be of good character and repute.

B. An applicant for registration shall submit evidence satisfactory to the board that the applicant is fully qualified to practice architecture in New Mexico.

C. All applicants for registration shall be required to pass any examinations required by the board.

D. All applicants for registration shall be required to complete all forms and affidavits required by the board.

E. An applicant for registration by examination shall have:

(1) a professional degree from an architectural program accredited by the national architectural accreditation board or its equivalent as prescribed by rule;

(2) certified completion of the intern training program of the national council of architectural registration boards; and

(3) passed all divisions of the architectural registration examination.

F. A person registered as an architect in another jurisdiction who has been certified by the national council of architectural registration boards may apply for registration without an examination by presenting:

(1) a certificate of good standing issued by

the national council of architectural registration boards or its equivalent as prescribed by rule; and

(2) evidence satisfactory to the board of qualification in design for seismic forces.

G. A person registered as an architect in another jurisdiction who has held the registration in a position of responsibility for at least five years and who does not have a certificate issued by the national council of architectural registration boards may apply for registration by presenting evidence of broad experience as an architect, as required by rule of the board, of academic training and work experience directly related to architecture.

H. No sole proprietorship, partnership, corporation, association or other business entity shall be registered under the Architectural Act. No sole proprietorship, partnership, corporation, association or other business entity shall practice or offer to practice architecture in the state except as provided in Subsections I, J and K of this section.

I. Registered architects may practice under the Architectural Act as individuals or through partnerships, associations, corporations or other business entities.

J. In the case of practice through a partnership offering architectural services, at least one of the partners shall be a registered architect under the Architectural Act,

and all plans, designs, drawings, specifications or reports issued by or for the partnership shall bear the seal of a registered architect who shall be responsible for such work.

K. In the case of practice through a business entity, services or work involving the practice of architecture may be offered through the business entity; provided the registered architect in responsible charge of the activities of the business entity involved in such practice is an employee of the business entity with the authority to bind the entity by contract. All plans, designs, drawings, specifications or reports that are involved in the practice and issued by or for the business entity shall bear the seal and signature of a registered architect in responsible charge of the work when issued. The architect in responsible charge of activities of the business entity offering architectural services shall provide the board with an affidavit documenting the authority and shall notify the board of a termination of the authority."

Section 5. Section 61-15-7 NMSA 1978 (being Laws 1931, Chapter 155, Section 6, as amended) is amended to read:

"61-15-7. CERTIFICATES OF REGISTRATION.--

A. The board shall issue a certificate of registration to each architect. An architect may, upon registration, obtain the seal of the design authorized by the board, which bears the registrant's name and the legend

"Registered Architect--State of New Mexico". All plans, specifications, plats and reports prepared by an architect or under an architect's responsible charge shall be signed and sealed by that architect, including all plans and specifications prepared by an architect or under an architect's responsible charge on work described in Subsection B of Section 61-15-9 NMSA 1978.

B. Certificates of registration shall be valid for a period of time as set by rule and shall be invalid after the date of expiration unless renewed.

C. Renewal may be effected at any time prior to expiration by the payment of a fee in an amount set by the board. Fees shall be paid to the board.

D. The failure on the part of any registrant to renew a certificate prior to expiration shall not deprive that person of the right of renewal within three years of the expiration date of the certificate. Reinstatement of the certificate may be effected in a manner prescribed by rule and may include penalties and fees.

E. Renewal of a certificate that has been expired for more than three years shall require a demonstration of continued proficiency and qualification to practice architecture in addition to payment of penalties and fees and such other requirements as may be required by rule."

Chapter 155, Section 7, as amended) is amended to read:

"61-15-8. EXEMPTIONS FROM REGISTRATION.--

A. The following are exempt from the provisions of the Architectural Act:

(1) architects who have no established places of business in this state and who are not registered under the Architectural Act may act as consulting associates of an architect registered under the provisions of the Architectural Act, provided the architects are registered as architects in another jurisdiction; and

(2) architects acting solely as officers or employees of the United States or any interstate railroad system.

B. Nothing in the Architectural Act shall prevent a registered architect from employing non-registrants to work under the architect's responsible charge."

Section 7. Section 61-15-9 NMSA 1978 (being Laws 1931, Chapter 155, Section 8, as amended) is amended to read:

"61-15-9. PROJECT EXEMPTIONS.--

A. The state and its political subdivisions are not exempt from the requirements of the Architectural Act.

B. A person who is not an architect may prepare building plans and specifications unless the building plans and specifications involve public safety or health, but the work shall be done only on:

(1) single-family dwellings not more than two stories in height;

(2) multiple dwellings not more than two stories in height containing not more than four dwelling units of wood-frame construction; provided, this paragraph shall not be construed to allow a person who is not registered under the Architectural Act to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four dwelling units on any lawfully divided lot;

(3) garages or other structures not more than two stories in height which are appurtenant to buildings described in Paragraphs (1) and (2) of this subsection; or

(4) nonresidential buildings, as defined in the uniform building code, unless the building code official having jurisdiction has found that the submission of plans, drawings, specifications or calculations prepared and designed by an architect or engineer licensed by the state is necessary to obtain compliance with minimum standards governing the preparation of building plans and specifications adopted by the construction industries division of the regulation and licensing department. The construction industries division shall set, by regulation, minimum standards for preparation of building plans and specifications pursuant to this paragraph.

C. Nothing in the Architectural Act shall require the state or any political subdivision of the state to secure the services of an architect or engineer for any public work project which consists of repair, replacement or remodeling if the alteration does not affect structural or life safety features of a building and does not require the issuance of a building permit under any applicable code.

D. A New Mexico registered professional engineer who has complied with all the laws of New Mexico relating to the practice of engineering has a right to engage in the incidental practice, as defined by rule, of activities properly classified as architectural services; provided that the engineer does not hold himself out to be an architect or as performing architectural services; and further provided that the engineer performs only that part of the work for which the engineer is professionally qualified and uses qualified professional engineers, architects or others for those portions of the work in which the contracting professional engineer is not qualified. The engineer shall assume all responsibility for compliance with all laws, codes, rules and ordinances of the state or its political subdivisions pertaining to documents bearing an engineer's professional seal."

Section 8. Section 61-15-10 NMSA 1978 (being Laws 1979, Chapter 362, Section 8, as amended) is amended to read:

"61-15-10. VIOLATIONS--PENALTIES.--

A. Any person who knowingly uses a forged architectural registration seal on any document for the purposes of permitting the constructing of any building for human habitation or occupancy is guilty of a fourth degree felony, punishable pursuant to Section 31-18-15 NMSA 1978.

B. Each of the following acts committed by any person constitutes a misdemeanor, punishable pursuant to Section 31-19-1 NMSA 1978.

(1) willfully forging or giving false evidence of any kind to the board or any board member for the purpose of obtaining a certificate of registration as an architect;

(2) using or attempting to use an expired, suspended or revoked certificate of registration as an architect;

(3) using or permitting another to use his official architect's seal to stamp or seal any documents that have not been prepared either by the architect or the architect's responsible charge;

(4) engaging or offering to engage in the practice of architecture, unless exempted or duly registered to do so under the Architectural Act;

(5) using any designation tending to imply to the public that the person is an architect unless:

(a) the person is duly registered to do so under the provisions of the Architectural Act;

(b) the title containing the designation is allowed by rule of the board; or

(c) the title containing the designation does not imply that the person using the designation, when describing occupation, business name or services, is offering to perform architectural services; or

(6) procuring, aiding or abetting any violation of the provisions of the Architectural Act or the rules adopted by the board."

Section 9. Section 61-15-12 NMSA 1978 (being Laws 1979, Chapter 362, Section 9, as amended) is amended to read:

"61-15-12. DISCIPLINARY ACTIONS.--

A. In accordance with the provisions of the Uniform Licensing Act, the board may refuse to issue, may suspend or may revoke any certificate of registration as an architect, and the board may impose disciplinary conditions, including a letter of censure or reprimand, an administrative penalty, probation, peer review, remedial education and testing and other conditions as deemed necessary by the board to promote the public welfare, upon satisfactory proof being made to the board that the registrant has:

(1) engaged in any fraud or deceit in obtaining a certificate of registration;

(2) made a false statement under oath or a false affidavit to the board;

(3) engaged in gross negligence, incompetency or misconduct in the practice of architecture as set forth by rule;

(4) stamped with his official seal any plans, specifications, plats or reports in violation of the Architectural Act;

(5) practiced architecture without a valid and current registration in the jurisdiction in which the practice took place;

(6) represented himself to be an architect without having a valid and current certificate of registration as an architect in the jurisdiction in which the representation took place;

(7) violated any provisions of the Architectural Act or the rules adopted by the board;

(8) refused to accept or to respond to a certified mail communication from the board;

(9) failed to provide the board or its representatives in a timely manner all documentation or information in the registrant's possession or knowledge that has been requested by the board for the purposes of investigation of an alleged violation of the Architectural Act or the rules adopted by the board;

(10) procured, aided or abetted a violation of the Architectural Act or the rules adopted by the board;

(11) failed to comply with the minimum standards of the practice of architecture;

(12) habitually or excessively used intoxicants or controlled substances; or

(13) failed to report to the board any adverse actions taken against the registrant by another jurisdiction, any professional organization, any governmental or law enforcement agency or any court for an act or conduct that would constitute grounds for actions as provided by this section.

B. The board may deny access to examination, may refuse to issue, may suspend or may revoke any certificate of registration as an architect:

(1) for any applicant found to have violated any provision of the Architectural Act or the rules adopted by the board; or

(2) for any registrant or applicant who is convicted of a felony.

C. Disciplinary proceedings may be instituted by any person, shall be instituted by sworn complaint and shall conform to the provisions of the Uniform Licensing Act. Any party to a hearing may obtain a copy of the hearing record upon payment of the costs for the copy.

D. The board may modify any prior order of revocation, suspension or refusal to issue a certificate of registration of an architect, but only upon a finding by the board that there no longer exist any grounds for disciplinary action; provided, however, that any cessation of the practice of architecture for twelve months or more shall require the architect to undergo such additional examination as the board determines necessary.

E. Nothing in the Architectural Act shall be construed as requiring the board to report, for the institution of proceedings, minor violations of that act provided that the board, after an informal hearing, determines that the public interest will be adequately served by a suitable written notice or warning or by the suspension of the offender's license or certificate of registration for a period not to exceed thirty days.

F. The applicant or registrant shall be liable for all costs of disciplinary proceedings unless exonerated and shall be liable for all costs associated with monitoring compliance with any disciplinary action."

Section 10. Section 61-15-13 NMSA 1978 (being Laws 1979, Chapter 362, Section 10, as amended) is amended to read:

"61-15-13. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of examiners for architects is terminated

on July 1, 2005 pursuant to the provisions of the Sunset Act.

The board shall continue to operate according to the provisions of the Architectural Act until July 1, 2006.

Effective July 1, 2006, the Architectural Act is repealed."     

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